

Counseling Compact
Counseling Compact Commission

Public comment information:

Public comments on this rule should be sent to ieliassen@csg.org by 6 p.m. Pacific Time on October 21st 2022.

Title of Rule: Rule on Rulemaking

History of Rule: Drafted September 23, 2022
Adopted at public meeting on October 25, 2022

Reason for Rule: To further outline and clarify the rule promulgation process of the Counseling Compact Commission.

Effective Date: November 25, 2022

Chapter 1: Rulemaking

Authority: Section 13: Date of Implementation of the Interstate Commission for Counseling Practice and Associated Rules, Withdrawal, and Amendment
Section 9: Establishment of the Counseling Compact Commission
Section 11: Rulemaking

1.0 Purpose: Pursuant to Section 11, the Counseling Compact Commission shall promulgate reasonable and lawful uniform rules to facilitate and coordinate implementation and administration of the Counseling Compact. This Rule will become effective upon passage by the Counseling Compact Commission as provided in Section 11 of the Counseling Compact.

1.1 Definition(s): (a) **“Commission”** means: the Counseling Compact Commission, which is the national administrative body whose membership consists of all states that have enacted the Compact.

(b) **“Compact”** means: Counseling Compact.

(c) **“Delegate”** means: the appointed delegate from each state as described in Section 9 of the Compact and further rules promulgated by the Commission pursuant to the criteria set forth in Section 11.

33 (d) “**Member state**” means a state, the District of Columbia, or United
34 States territory that has enacted this Compact legislation and which has
35 not withdrawn pursuant to Section 13 or has not been discharged pursuant
36 to Section 12 due to non-compliance with the provisions of Section 3.

37 (d) “**Rule**” means: a regulation, principle or directive promulgated by the
38 Commission pursuant to the criteria set forth in Section 11 that has the
39 force and effect of statutory law in a Member state and includes the
40 amendment, repeal, or suspension of an existing Rule.

41 (e) “**Rules Committee**” means: a committee that is established as a
42 standing committee to develop reasonable and lawful uniform rules for
43 consideration by the Commission and subsequent implementation by the
44 states and to review existing rules and recommend necessary changes to
45 the Commission for consideration.

46 (f) “**Scope of Practice**” means: the procedures, actions, and processes a
47 Licensed Professional Counselor is permitted to undertake in that state and
48 the circumstances under which the Licensed Professional Counselor is
49 permitted to undertake those procedures, actions and processes. Such
50 procedures, actions and processes and the circumstances under which they
51 may be undertaken may be established through official means, including,
52 but not limited to, statute, rules and regulations, case law, and other
53 processes available to the State Regulatory Authority or other government
54 agency.
55

56 (g) “**State**” means: any state, commonwealth, district, or territory of the
57 United States of America that regulates the practice of Professional
58 Counseling.

59 **1.2 Proposed rules or amendments:** rules shall be adopted by majority vote of the Member
60 States of the Commission pursuant to the criteria set forth in Section 11 and in the following
61 manner:

62 (a) New rules and amendments to existing rules proposed pursuant to Section 9 and
63 Section 11 and the Commission Bylaws shall be submitted to the Commission office for
64 referral to the Rules Committee in any of the following ways:

65 (1) Any Delegate may submit a proposed Rule or rule amendment for referral to
66 the Rules Committee during the next scheduled Commission meeting.

67 (2) Standing Committees of the Commission may propose rules or rule
68 amendments by majority vote of that Committee.

69 (3) The Commission or an authorized committee of the Commission may direct
70 revisions to a previously adopted Rule or amendment for purposes of correcting
71 typographical errors, errors in format, errors in consistency, or grammatical
72 errors. Public notice of any revisions shall be posted on the website of the
73 Commission. The revision shall be subject to challenge by any person for a period

74 of thirty (30) days after posting. The revision may be challenged only on grounds
75 that the revision results in a material change to a Rule. A challenge shall be made
76 in writing and delivered to the Chair of the Commission prior to the end of the
77 notice period. If no challenge is made, the revision will take effect without further
78 action. If the revision is challenged, the revision may not take effect without the
79 approval of the Commission.
80

81 **1.3 The Rules Committee:** shall prepare a draft of all proposed rules and provide the draft to the
82 Executive Committee to provide to all Delegates for review and comments. Based on the
83 comments made by the Delegates, the Rules Committee shall prepare a final draft of the
84 proposed rule(s) or amendments for consideration by the Commission not later than 30 days
85 prior to the next Commission meeting.

86 **1.4 Prior to promulgation and adoption of a final Rule:** In accordance with Section 11 of the
87 Compact, the Commission shall publish the text of the proposed rule or amendment prepared by
88 the Rules Committee not later than 30 days prior to the meeting at which the vote is scheduled,
89 on the official website of the Commission and on the website of each Member state licensing
90 board or other publicly accessible platform or the publication in which each state would
91 otherwise publish proposed rules. All written comments received by the Rules Committee on
92 proposed rules shall be made available to the public upon request. In addition to the text of the
93 proposed Rule or amendment, the reason for the proposed rule shall be provided.

94 **1.5 The Notice of Proposed Rulemaking shall include:**

- 95 (a) The proposed time, date and location of the meeting in which the Rule shall be
96 considered and voted upon,
97 (b) The text of the proposed Rule or amendment and the reason for the proposed Rule.
98 (c) A request for comments on the proposed Rule from any interested person; and
99 (d) The manner in which interested persons may submit notice to the Commission of their
100 intention to attend the public meeting and any written comments.
101

102 **1.6 Public Hearings:** The Commission shall grant an opportunity for a public hearing before it
103 adopts a Rule or amendment if a hearing is requested by:

- 104 1. At least twenty-five (25) persons;
105 2. A state or federal governmental subdivision or agency; or
106 3. An association having at least twenty-five (25) members.

107 If no written notice of intent to attend the public hearing by interested parties is received, the
108 Commission may proceed with promulgation of the proposed Rule without a public hearing.

109 If a hearing is held on the proposed rule or amendment, the Commission shall publish the place,
110 time, and date of the scheduled public hearing. If the hearing is held via electronic means, the
111 Commission shall publish the mechanism for access to the electronic hearing.

- 112 1. All persons wishing to be heard at the hearing shall notify the executive director of the
113 Commission or other designated member in writing of their desire to appear and testify at
114 the hearing not less than five (5) business days before the scheduled date of the hearing.
115 2. Hearings shall be conducted in a manner providing each person who wishes to comment
116 a fair and reasonable opportunity to comment orally or in writing.
117 3. All hearings shall be recorded. A copy of the recording shall be made available on
118 request.
119 4. Nothing in this section shall be construed as requiring a separate hearing on each Rule.
120 Rules may be grouped for the convenience of the Commission at hearings required by
121 this section.

122 Following the scheduled hearing date, or by the close of business on the scheduled hearing date
123 if the hearing was not held, the Commission shall consider all written and oral comments
124 received.

125 **1.7 Final adoption of Rule:** The Commission shall, by majority vote of all Member States, take
126 final action on the proposed Rule and shall determine the effective date of the rule, if any, based
127 on the rulemaking record and the full text of the rule.

- 128 1. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a
129 statute or resolution in the same manner used to adopt the Compact within 4 years of the
130 date of adoption of the Rule, the Rule shall have no further force and effect in any
131 Member state.
132 2. Rules or amendments to the rules shall be adopted at a regular or special meeting of the
133 Commission.

134 **1.8 Status of Rules upon adoption of Compact additional Member states and applicability:**

135 Any state that joins the Compact subsequent to the Commission's initial adoption of the rules
136 shall be subject to the rules as they exist on the date on which the Compact becomes law in that
137 state. Any Rule that has been previously adopted by the Commission shall have the full force and
138 effect of law on the day the Compact becomes law in that state.

139 No Member State's rulemaking requirements shall apply under this Compact.

140 The Rules of the Commission shall have the force of law in each Member State, provided
141 however that where the Rules of the Commission conflict with the laws of the Member State that
142 establish the Member State's Scope of Practice as held by a court of competent jurisdiction, the
143 rules of the Commission shall be ineffective in that State to the extent of the conflict.

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145 **1.9 Emergency Rulemaking:** Upon determination that an emergency exists, the Commission
146 may consider and adopt an emergency Rule without prior notice, opportunity for comment, or
147 hearing, provided that the usual rulemaking procedures provided in the Compact and in this
148 section shall be retroactively applied to the rule as soon as reasonably possible, in no event later

149 than ninety (90) days after the effective date of the rule. For the purposes of this provision, an
150 emergency rule is one that must be adopted immediately in order to:

- 151 1. Meet an imminent threat to public health, safety, or welfare,
- 152 2. Prevent a loss of Commission or Member state funds; or
- 153 3. Meet a deadline for the promulgation of an administrative Rule that is established by
154 federal law or rule.

155 **2.0 Non-substantive Rule Revisions:** The Commission or an authorized committee of the
156 Commission may direct revisions to a previously adopted Rule or amendment for purposes of
157 correcting typographical errors, errors in format, errors in consistency, or grammatical errors.
158 Public notice of any revisions shall be posted on the website of the Commission. The revision
159 shall be subject to challenge by any person for a period of thirty (30) days after posting. The
160 revision may be challenged only on grounds that the revision results in a material change to a
161 Rule. A challenge shall be made in writing and delivered to the Commission prior to the end
162 of the notice period. If no challenge is made, the revision will take effect without further
163 action. If the revision is challenged, the revision may not take effect without the approval of
164 the Commission.

165

166 The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in Section
167 11 of the Compact and the rules adopted thereunder. Rules and amendments shall become
168 binding as of the date specified in each Rule or amendment.